

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES SIMMERS,  
Plaintiff,

CIVIL ACTION

v.

JAMES ELO; MIKE KELLY; TIMOTHY  
DEERY; JOSE COLLAZO; JAMES W.  
AVERY; JOSEPH RALSTON; ANDREW  
KELLY; NEHEMIAH HAIGLER; JOHN  
BRENNAN; AVRIL EKLUND; TIMOTHY  
RILEY; and JOHN AND JANE DOES 1-25,  
Defendants.

NO. 14-6609

**ORDER**

**AND NOW**, this 5th day of June, 2015, upon consideration of Commonwealth Defendants' Motion to Dismiss Plaintiff's First Amended Complaint (ECF No. 13) and the opposition thereto (ECF No. 14), **IT IS ORDERED** that the Motion is **GRANTED IN PART AND DENIED IN PART** as follows:

Counts II and IV are **DISMISSED WITH PREJUDICE**;

Count V is **DISMISSED WITHOUT PREJUDICE**; and

The Motion is **DENIED** in all other respects.

BY THE COURT:



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WENDY BEETLESTONE, J.